

AMENDED IN SENATE APRIL 8, 2013

**SENATE BILL**

**No. 401**

**Introduced by Senator Rubio Hueso**  
(Principal coauthor: Assembly Member Salas)

February 20, 2013

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An act to amend Section 100.5 of the Elections Code, relating to elections; 11346.2 of the Government Code, relating to administrative regulations.

LEGISLATIVE COUNSEL'S DIGEST

SB 401, as amended, Rubio Hueso. ~~Ballot measure petitions and papers; signatures. Administrative practices.~~

*Existing law requires every state agency subject to the Administrative Procedure Act to provide an initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. Existing law requires an initial statement of reasons for a regulation that is a building standard that impacts housing to include the estimated cost of compliance and the potential benefits of the regulation and the related assumptions used in determining that estimate, except as specified.*

*This bill would instead require an initial statement of reasons for any regulation that is a building standard, regardless of whether the building standard impacts housing, to include the information specified above.*

~~Under existing law, whenever an initiative, referendum, recall, or nominating petition or paper, or any other petition or paper, is required to be signed by voters of a county, city, school district, or special district, a voter signing the petition or paper must personally affix his or her signature, printed name, and place of residence on the petition or paper. However, if the voter is unable to personally affix that information, existing law permits another person to print the voter's name and place~~

~~of residence on the petition or paper, but the voter must personally affix his or her mark or signature on the petition or paper, which must be witnessed by one person who subscribes his or her name on the petition or paper.~~

~~This bill would delete the requirement that the voter be unable to personally affix his or her information in order to request that another person print the voter's name and place of residence on the petition or paper. This bill would also delete the requirement that a witness subscribe his or her name on the petition or paper and would instead require the person who assists the voter in completing the petition or paper to sign and date the petition or paper below the signature of the voter.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 11346.2 of the Government Code, as
- 2     amended by Section 1.5 of Chapter 766 of the Statutes of 2012, is
- 3     amended to read:
- 4     11346.2. Every agency subject to this chapter shall prepare,
- 5     submit to the office with the notice of the proposed action as
- 6     described in Section 11346.5, and make available to the public
- 7     upon request, all of the following:
- 8     (a) A copy of the express terms of the proposed regulation.
- 9     (1) The agency shall draft the regulation in plain, straightforward
- 10    language, avoiding technical terms as much as possible, and using
- 11    a coherent and easily readable style. The agency shall draft the
- 12    regulation in plain English.
- 13    (2) The agency shall include a notation following the express
- 14    terms of each California Code of Regulations section, listing the
- 15    specific statutes or other provisions of law authorizing the adoption
- 16    of the regulation and listing the specific statutes or other provisions
- 17    of law being implemented, interpreted, or made specific by that
- 18    section in the California Code of Regulations.
- 19    (3) The agency shall use underline or italics to indicate additions
- 20    to, and strikeout to indicate deletions from, the California Code
- 21    of Regulations.

1 (b) An initial statement of reasons for proposing the adoption,  
2 amendment, or repeal of a regulation. This statement of reasons  
3 shall include, but not be limited to, all of the following:

4 (1) A statement of the specific purpose of each adoption,  
5 amendment, or repeal, the problem the agency intends to address,  
6 and the rationale for the determination by the agency that each  
7 adoption, amendment, or repeal is reasonably necessary to carry  
8 out the purpose and address the problem for which it is proposed.  
9 The statement shall enumerate the benefits anticipated from the  
10 regulatory action, including the benefits or goals provided in the  
11 authorizing statute. The benefits may include, to the extent  
12 applicable, nonmonetary benefits such as the protection of public  
13 health and safety, worker safety, or the environment, the prevention  
14 of discrimination, the promotion of fairness or social equity, and  
15 the increase in openness and transparency in business and  
16 government, among other things.

17 (2) For a major regulation proposed on or after November 1,  
18 2013, the standardized regulatory impact analysis required by  
19 Section 11346.3.

20 (3) An identification of each technical, theoretical, and empirical  
21 study, report, or similar document, if any, upon which the agency  
22 relies in proposing the adoption, amendment, or repeal of a  
23 regulation.

24 (4) Where the adoption or amendment of a regulation would  
25 mandate the use of specific technologies or equipment, a statement  
26 of the reasons why the agency believes these mandates or  
27 prescriptive standards are required.

28 (5) (A) A description of reasonable alternatives to the regulation  
29 and the agency's reasons for rejecting those alternatives.  
30 Reasonable alternatives to be considered include, but are not  
31 limited to, alternatives that are proposed as less burdensome and  
32 equally effective in achieving the purposes of the regulation in a  
33 manner that ensures full compliance with the authorizing statute  
34 or other law being implemented or made specific by the proposed  
35 regulation. In the case of a regulation that would mandate the use  
36 of specific technologies or equipment or prescribe specific actions  
37 or procedures, the imposition of performance standards shall be  
38 considered as an alternative.

1 (B) A description of reasonable alternatives to the regulation  
2 that would lessen any adverse impact on small business and the  
3 agency's reasons for rejecting those alternatives.

4 (C) Notwithstanding subparagraph (A) or (B), an agency is not  
5 required to artificially construct alternatives or describe  
6 unreasonable alternatives.

7 (6) (A) Facts, evidence, documents, testimony, or other  
8 evidence on which the agency relies to support an initial  
9 determination that the action will not have a significant adverse  
10 economic impact on business.

11 (B) (i) If a proposed regulation ~~that is a building standard~~  
12 ~~impacts housing, standard,~~ the initial statement of reasons shall  
13 include the estimated cost of compliance, the estimated potential  
14 benefits, and the related assumptions used to determine the  
15 estimates.

16 (ii) The model codes adopted pursuant to Section 18928 of the  
17 Health and Safety Code shall be exempt from the requirements of  
18 this subparagraph. However, if an interested party has made a  
19 request in writing to the agency, at least 30 days before the  
20 submittal of the initial statement of reasons, to examine a specific  
21 section for purposes of estimating the cost of compliance and the  
22 potential benefits for that section, and including the related  
23 assumptions used to determine the estimates, then the agency shall  
24 comply with the requirements of this subparagraph with regard to  
25 that requested section.

26 (7) A department, board, or commission within the California  
27 Environmental Protection Agency, the Natural Resources Agency,  
28 or the Office of the State Fire Marshal shall describe its efforts, in  
29 connection with a proposed rulemaking action, to avoid  
30 unnecessary duplication or conflicts with federal regulations  
31 contained in the Code of Federal Regulations addressing the same  
32 issues. These agencies may adopt regulations different from federal  
33 regulations contained in the Code of Federal Regulations  
34 addressing the same issues upon a finding of one or more of the  
35 following justifications:

36 (A) The differing state regulations are authorized by law.

37 (B) The cost of differing state regulations is justified by the  
38 benefit to human health, public safety, public welfare, or the  
39 environment.

(c) A state agency that adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with subdivision (b) if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with this chapter with respect to any provisions in the regulation that the agency proposes to adopt or amend that are different from the corresponding provisions of the federal regulation.

(d) This section shall become operative on January 1, 2012.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

*SEC. 2. Section 11346.2 of the Government Code, as amended by Section 2 of Chapter 471 of the Statutes of 2012, is amended to read:*

11346.2. Every agency subject to this chapter shall prepare, submit to the office with the notice of the proposed action as described in Section 11346.5, and make available to the public upon request, all of the following:

(a) A copy of the express terms of the proposed regulation.

(1) The agency shall draft the regulation in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The agency shall draft the regulation in plain English.

(2) The agency shall include a notation following the express terms of each California Code of Regulations section, listing the specific statutes or other provisions of law authorizing the adoption of the regulation and listing the specific statutes or other provisions of law being implemented, interpreted, or made specific by that section in the California Code of Regulations.

(3) The agency shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

(b) An initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. This statement of reasons shall include, but not be limited to, all of the following:

(1) A statement of the specific purpose of each adoption, amendment, or repeal, the problem the agency intends to address, and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute. These benefits may include, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things. Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes these mandates or prescriptive standards are required.

(2) For a major regulation proposed on or after November 1, 2013, the standardized regulatory impact analysis required by Section 11346.3.

(3) An identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation.

(4) (A) A description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. Reasonable alternatives to be considered include, but are not limited to, alternatives that are proposed as less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.

1 (B) A description of reasonable alternatives to the regulation  
2 that would lessen any adverse impact on small business and the  
3 agency's reasons for rejecting those alternatives.

4 (C) Notwithstanding subparagraph (A) or (B), an agency is not  
5 required to artificially construct alternatives or describe  
6 unreasonable alternatives.

7 (5) (A) Facts, evidence, documents, testimony, or other  
8 evidence on which the agency relies to support an initial  
9 determination that the action will not have a significant adverse  
10 economic impact on business.

11 (B) (i) If a proposed regulation ~~that is a building standard~~  
12 ~~impacts housing, standard,~~ the initial statement of reasons shall  
13 include the estimated cost of compliance, the estimated potential  
14 benefits, and the related assumptions used to determine the  
15 estimates.

16 (ii) The model codes adopted pursuant to Section 18928 of the  
17 Health and Safety Code shall be exempt from the requirements of  
18 this subparagraph. However, if an interested party has made a  
19 request in writing to the agency, at least 30 days before the  
20 submittal of the initial statement of reasons, to examine a specific  
21 section for purposes of estimating the cost of compliance and the  
22 potential benefits for that section, and including the related  
23 assumptions used to determine the estimates, then the agency shall  
24 comply with the requirements of this subparagraph with regard to  
25 that requested section.

26 (6) A department, board, or commission within the  
27 Environmental Protection Agency, the Natural Resources Agency,  
28 or the Office of the State Fire Marshal shall describe its efforts, in  
29 connection with a proposed rulemaking action, to avoid  
30 unnecessary duplication or conflicts with federal regulations  
31 contained in the Code of Federal Regulations addressing the same  
32 issues. These agencies may adopt regulations different from federal  
33 regulations contained in the Code of Federal Regulations  
34 addressing the same issues upon a finding of one or more of the  
35 following justifications:

36 (A) The differing state regulations are authorized by law.

37 (B) The cost of differing state regulations is justified by the  
38 benefit to human health, public safety, public welfare, or the  
39 environment.

1 (c) A state agency that adopts or amends a regulation mandated  
2 by federal law or regulations, the provisions of which are identical  
3 to a previously adopted or amended federal regulation, shall be  
4 deemed to have complied with subdivision (b) if a statement to  
5 the effect that a federally mandated regulation or amendment to a  
6 regulation is being proposed, together with a citation to where an  
7 explanation of the provisions of the regulation can be found, is  
8 included in the notice of proposed adoption or amendment prepared  
9 pursuant to Section 11346.5. However, the agency shall comply  
10 fully with this chapter with respect to any provisions in the  
11 regulation that the agency proposes to adopt or amend that are  
12 different from the corresponding provisions of the federal  
13 regulation.

14 (d) This section shall be inoperative from January 1, 2012, until  
15 January 1, 2014.

16 ~~SECTION 1. Section 100.5 of the Elections Code is amended~~  
17 ~~to read:~~

18 ~~100.5.— Notwithstanding Section 100, a voter may request~~  
19 ~~another person to print the voter's name and place of residence on~~  
20 ~~the appropriate spaces of the petition or paper, but the voter shall~~  
21 ~~personally affix his or her mark or signature on the appropriate~~  
22 ~~space of the petition or paper. A person who assists the voter in~~  
23 ~~printing the voter's name or place of residence on the petition or~~  
24 ~~paper shall sign and date the petition or paper below the signature~~  
25 ~~of the voter.~~